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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,008	09/15/1999	LAWRENCE M. AUSUBEL	3788-7000US1	8229

7590 12/24/2003

ATTEN: STANLEY B. GREEN  
CONNOLLY, BOVE, LODGE & HUTZ LLP  
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WASHINGTON, DC 20036-0088

EXAMINER

POINVIL, FRANTZY

ART UNIT PAPER NUMBER

3628

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No. 09/397,008	Applicant(s) AUSUBEL, LAWRENCE M.	
Examiner Frantzy Poinvil	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 25 September 2003.
- 2a)  This action is FINAL.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 26-30, 43-70 and 76-185 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) \_\_\_\_\_ is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) 26-30, 43-70 and 76-185 are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a)  The translation of the foreign language provisional application has been received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

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## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 43-66, 26-30, drawn to the auctioning of a plurality of items comprising the steps of determining separately for each of a plurality of items if an item to be assigned in the current round, and in the event of such a determined quantity, assigning the determined quantity to the determined bidder, classified in Class 705, subclass 37.

II. Claims 67-70, drawn to the auctioning of a plurality of items comprising the step of determining separately, for each of a plurality of bidders, a quantity of the objects if any, to be assigned in the current round, and in the event of such a determined quantity, assigning the determined quantity to the determined bidder, the determining step comprising of a summing step, classified in Class 705, subclass 37.

III. Claims 76-107, drawn to the auctioning of a plurality of items comprising the step of determining at the computer, based on the bids whether there is at least one object which is desired by only one bidder and, if so, assigning the determined object or objects to the determined bidder, classified in Class 705, subclass 37.

IV. Claims 108-159, drawn to the auctioning of a plurality of items comprising the step of determining at the computer, for each of a plurality of bidders, objects or a quantity of objects, if any, to be assigned to the bidder at the current time, and in the event of such determined objects or quantity of objects, assigning the determined objects or quantity of objects to the determined bidder, classified in Class 705, subclass 37.

V. Claims 160-173, drawn to the auctioning of a plurality of items comprising constraining bids so that the quantity that a bidder wishes to transact at the current price can be no greater than the quantity that the bidder wished to transact at the immediately preceding price, classified in Class 705, subclass 37.

VI. Claims 182-185, drawn to a method for using at least one computer to implement an auction of a plurality of items, the auction allowing submission of bids on the items at a plurality of times comprising the step of generating signals, at each signal

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generated at a computer and representing the transaction curve information from a bidder corresponding to a current price, classified in class 705, subclass 37.

VII. Claims 174-181, drawn to the auctioning of a plurality of items comprising the step of determining at a computer whether the auction should continue or end based on a comparison of a sum of quantities that bidders wish to transact and an available quantity of item, classified in Class 705, subclass 37.

The inventions are distinct, each from the other because of the following reasons:

Inventions I to VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are unrelated because in the invention of Group I-V and VII, it is not necessary for a bidder to input a transaction curve corresponding to a current price as recited in Group VI.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

*FTO*  
EDWY/PCW/ML  
P. M. M. EXAMINER  
AU 3628  
12/23/03

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*Conclusion*

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 Before Final actions and (703) 872-9327 After Final actions..

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP  
October 22, 2003

*FP*  
FRANTZY POINVIL  
EXAMINER  
AU 3628